

[REDACTED]
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[REDACTED]

[REDACTED]

OP:E:EO:T:4

November 19, 1998

Dear Applicant:

JAN 5 1999

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code and as an organization described in section 501(c)(4) of the Code.

You were created by the merger of [REDACTED] (a stock corporation exempt under section 501(c)(7) of the Code), into [REDACTED] (a nonstock corporation) on [REDACTED]. The surviving organization, [REDACTED], immediately changed its name to [REDACTED]. You applied for exemption under section 501(c)(3) of the Code on [REDACTED]. You subsequently applied for exemption under section 501(c)(4). This ruling will consider your qualification for exemption under both sections.

Your membership is open to the general public. Annual dues are \$[REDACTED]. Your board of directors is elected by your members. Although shareholders of the predecessor corporation who were its organizers are classified as founding members, they receive no special rights or privileges as a result of this status.

Your activities include holding weekly bingo games in your clubhouse. Games are open to the general public and average attendance is [REDACTED] players. Bingo and pull-tab sales are your major revenue source. You have estimated that about [REDACTED]% of your time and other resources is devoted to the operation of the bingo games.

You also have some social activities. Your newsletter dated [REDACTED] refers to "dinners, parties and like events" as well as a [REDACTED]. You have not provided an estimate of time and money spent on social activities.

You allow other organizations to use your facilities for a fee and you will also serve food at such events. You have not provided an estimate of time and money spent on these activities, but the revenue from them appears to be substantial.

[REDACTED]

Your other activities include holding [REDACTED] safety classes, holding pistol and skeet shooting matches open to the public, operating a skeet shooting facility which is open to the public, sponsoring wilderness weekends for the Boy Scouts, hosting seminars for law enforcement personnel, hosting meetings of the [REDACTED], sponsoring activities of the [REDACTED], and sponsoring the [REDACTED]. You have not provided an estimate of the time and other resources devoted to firearms safety classes or operation of the skeet shooting facility, but you estimate that about [REDACTED]% of your time is devoted to pistol and skeet shooting matches and a total of about [REDACTED]% of your time is devoted to the other activities listed in this paragraph.

I. Qualification for Exemption under Section 501(c)(3) of the Code

Section 501(c)(3) of the Internal Revenue Code describes, in relevant part, organizations organized and operated exclusively for charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(c) (1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Rev. Rul. 59-310, 1959-2 C.B. 146, describes a nonprofit corporation organized for the purpose of establishing, maintaining and operating a public swimming pool, playground and other recreation facilities for the children and other residents of a community. The funds of the association are raised by public subscription with the exception of small amounts derived from nominal charges made for admission to the swimming pool. Residents making use of such facilities consist principally of low-income groups who are unable to pay the cost of privately sponsored recreation facilities for themselves and their children. Since the property and its uses are dedicated to members of the general public of the community and are charitable in that they serve a generally recognized public purpose which tends

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to lessen the burdens of government, the organization is exclusively charitable within the meaning of section 501(c)(3) of the Code.

In *Better Business Bureau Of Washington, D. C., Inc. V. United States*, 66 S. Ct. 112, the Supreme Court held that in order to fall within the claimed exemption, an organization must be devoted to educational purposes exclusively. This means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.

While there are circumstances in which providing recreational facilities, such as a skeet shooting facility, to the general public can be considered a charitable activity, you differ in several important respects from the organization described in Rev. Rul. 59-310. The fees charged for the use of your facility are not nominal. Because of the nature of your facilities, it is not likely that its principal users will be low-income persons. Funds to operate your facility are not provided by public subscription, but rather by bingo games, admission fees, and concession sales. We are therefore unable to conclude that the operation of your facility furthers any charitable purpose. Although you sponsor some educational activities, such as classes in firearms safety, these activities do not appear to be substantial in comparison to your other activities.

Furthermore, even if the operation of your facility could be considered a charitable activity, you carry on substantial social and recreational activities. These social and recreational activities include social events for your members and holding pistol and skeet shooting matches. You also allow other organizations to use your facility for social events, and you provide catering services for these events. None of these activities further any recognized charitable or educational purpose, and will preclude exemption even in the case of an organization with other exempt purposes. See *Better Business Bureau v. U.S.*

Based on the foregoing, we rule that you do not qualify for exemption from tax as an organization described in section 501(c)(3) of the Code.

II. Qualification for Exemption under Section 501(c)(4) of the Code

Section 501(c)(4) of the Code describes, in relevant part, civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, so long as no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations provides that a civic league or organization may be exempt as an organization described in section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the regulations provides, in relevant part, that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or it is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Rev. Rul. 66-273, 1966-2 C.B. 222, describes an organization that provides supervised facilities in a community for the development of good pistol, rifle, and shotgun marksmanship and for instruction in the safe handling and proper care of firearms. Membership is open to any citizen of the community. The organization's principal activity is the operation of a rifle and pistol target range. The general public is permitted full use of the organization's facilities. Qualified members of the organization conduct classes in safe gun handling and supervise the firing on the ranges. The organization does not maintain a clubhouse. Social affairs are limited to an annual dinner for members, occasional picnics, and special events. The ruling concludes that providing a community with supervised facilities for firearm shooting, giving instructions in the safe handling and proper care of guns, and teaching better marksmanship are considered to be activities which promote the common good and general welfare of the community. Therefore, the organization is exempt from Federal income tax under section 501(c)(4) of the Code.

Rev. Rul. 68-46, 1968-1 C.B. 260, describes an organization that carries on veterans' programs and other benevolent, welfare, patriotic, and civic activities, but also carries on several business activities relating to the rental of an office building and providing meeting room space and food and bar catering services that exceeded all its other activities. Because the organization's social welfare program is not its primary activity, the organization is not exempt from Federal income tax under section 501(c)(4) of the Code.

You have stated that [REDACTED] % of your time and resources are devoted to the operation of bingo games. The conduct of bingo games is not a social welfare activity. You also have some social activities for your members. Social activities are

not social welfare activities; see section 1.501(c)(4)-1(a)(2) of the regulations. You also make your clubhouse and the services of your members available to other groups for a fee for dinners and similar functions. Like the organization described in Rev. Rul. 68-46, your primary activity is not the promotion of social welfare. Based on the information you have provided, it is clear that more than 50% of your time is spent on bingo games, social activities, and your catering business. None of these are social welfare activities. Taken together, these activities appear to provide approximately 50% of your revenues.

You differ in several important respects from the organization described in Rev. Rul. 66-273. Your principal activity is not the operation of a target range, rather, it is the conduct of bingo games. You do maintain a clubhouse, and you have substantial social activities.

Because you are not primarily engaged in social welfare activities, as required by section 1.501(c)(4)-1(a)(2) of the regulations, you are not operated exclusively for the promotion of social welfare as required by section 501(c)(4) of the Code and section 1.501(c)(4)-1(a)(1) of the regulations. Therefore, you do not qualify for recognition of exemption under section 501(c)(4) of the Code.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption under section 501(c)(3) of the Code or under section 501(c)(4) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. Please

NO POSTAL DELIVERY
Please copy to District

Date 1/5/99

Surname [REDACTED]

[REDACTED]

note that section 7428 of the Code is applicable only with respect to your application for exemption under section 501(c)(3) of the Code.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

You will expedite our receipt of your reply by using the following address on the envelope:

Internal Revenue Service
OP:E:EO:T:4, Room 6236
1111 Constitution Avenue, NW
Washington, DC 20224

Sincerely yours,

Gerald V. Sack

Gerald V. Sack
Chief, Exempt Organizations
Technical Branch 4

Code	OP:E:EO:T:4	OP:E:EO:T:4		
Surname	[REDACTED]	[REDACTED]		
Date	[REDACTED]	[REDACTED]		